IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 814 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment?

2 To be referred to the Reporter or not?

3 Whether their Lordships wish to see the fair copy of the judgment?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder?

5 Whether it is to be circulated to the civil judge?

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NILESH NAGINDAS SONI
Versus
STATE OF GUJARAT AND ANOTHER

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Appearance :
MR NILESH A PANDYA for the Petitioner
MR HL JANI, ADDITIONAL PUBLIC PROSECUTOR for Respondent No.1
None for Respondent No.2

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 28/12/2006

ORAL JUDGMENT

1. Present is the revision application filed by Shri Nilesh Nagindas Soni – original accused being aggrieved by order dated 19.12.2006 passed by the learned Presiding

Officer and Fast Track Court No.11, Vadodara in Criminal Appeal No.35 of 2006.

2. The facts of the case are that respondent No.2 herein – Gaurang Ashokrao Thosar filed Criminal Case No.661 of 2003 in the Court of learned Judicial Magistrate First Class, Vadodara ("JMFC", for short), alleging offence under Section 138 of the Negotiable Instruments Act ("the Act", for short).

The learned JMFC by his judgment and order dated 17.06.2006 was pleased to convict the present petitioner for an offence under Section 138 of the Act and awarded 1 year's S.I., fine of Rs.5,000/- and in default, 2 months S.I.

The learned JMFC was also pleased to order payment of compensation of Rs.2 lacs.

3. Being aggrieved by that order, the present petitioner preferred Criminal Appeal No.35 of 2006 in the Court of learned Presiding Officer and Fast Track Court No.11, Vadodara. That appeal was also dismissed by judgment and order dated 19.12.2006 and the judgment and order passed by the learned JMFC was upheld.

After the said judgment was pronounced – dismissing the Criminal Appeal No.35 of 2006, the present petitioner

filed Criminal Misc.Application No.35 of 2006 declaring before the Court that the matter is settled between the parties on payment of Rs.2 lacs.

The said application was rejected by order dated 19.12.2006 by the learned Presiding Officer and Fast Track Court No.11, Vadodara stating that as the appeal is already decided on merits and the judgment is pronounced and as this application is given at 05.30 P.M., the same cannot be taken into consideration and there is no question of granting permission to compromise the dispute between the parties.

4. Present revision application was filed on 22.12.2006. On that day, learned Advocate for the petitioner invited attention of the Court to the aforesaid facts and therefore, the Court issued Rule returnable on 27.12.2006.

Yesterday, i.e. 27.12.2006, the matter could not be taken up for hearing for paucity of time and therefore, the matter was kept today.

5. Parties are present before the Court. The petitioner – Shri Nilesh Nagindas Soni is identified by the learned Advocate appearing for him and Shri Gaurang Ashokrao Thosar – respondent No.2 – original complainant

produces xerox copy of his learner's licence bearing No.B/No.0687305 valid from 12.07.2006 to 11.01.2007. The same is taken on record.

Parties state that the matter is compromised between them and they have not surviving dispute/grievance amongst each other.

6. In view of the aforesaid facts, judgment and orders passed by the learned JMFC dated 17.06.2006 in Criminal Case No.661 of 2003 and learned Presiding Officer and Fast Track Court No.11, Vadodara dated 19.12.2006 in Criminal Appeal No.35 of 2006 are quashed and set aside. Revision Application is allowed. Rule is made absolute.

(RAVI R.TRIPATHI, J.)

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